

PATENT
The Eclipse Group Docket No. HI09038USU (P02108US)
Application Serial No.: 10/563,069

II. REMARKS

Claims 1-24 are pending and stand rejected in the present application. In the October 13, 2010 Non-Final Office Action, the Examiner:

1. Rejected claims 15-24 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention;
2. Objected to claim 24 under 37 CFR 1.75(c) as being in improper form because it depends on multiple independent claims (e.g. claim 1 and 15);
3. Provisionally rejected claims 1-17, 19 and 21 under 35 U.S.C. §101 as claiming the same invention as that of claims of co-pending Application No. 11/521,586;
4. Rejected claims 1, 3, 6-9, 11, 13, 15, 18-19, 21, 23, and 24 under 35 U.S.C. §102(e) as being anticipated by *Granier* (U.S. Patent No. 6,711,399);
5. Rejected claims 2 and 16 under 35 U.S.C. §103(a) as being unpatentable over *Granier* (U.S. Patent No. 6,711,399) in view of *Gao* (US 20040203652);
6. Rejected claim 4 under 35 U.S.C. §103(a) as being unpatentable over *Granier* (U.S. Patent No. 6,711,399) in view of *Gupte et al.* (US 20020055350);
7. Rejected claim 5 under 35 U.S.C. §103(a) as being unpatentable over *Granier* (U.S. Patent No. 6,722,399) in view of *Wu* (U.S. Patent No. 4,163,218);
8. Rejected claim 10 under 35 U.S.C. §103(a) as being unpatentable over *Granier* (U.S. Patent No. 6,711,399) in view of *Dunning* (U.S. Patent No. 6,765,495);
9. Rejected claims 12 and 22 under 35 U.S.C. §103(a) as being unpatentable over *Granier* (U.S. Patent No. 6,711,399) in view of *Taylor et al.* (US 20030009550);
10. Rejected claims 14 and 17 under 35 U.S.C. §103(a) as being unpatentable over *Granier* (U.S. Patent No. 6,711,399) in view of *Caci* (U.S. Patent No. 6,154,658); and
11. Rejected claim 20 under 35 U.S.C. §103(a) as being unpatentable over *Granier* (U.S. Patent No. 6,722,399) in view of *Gaudreau* (US 20030222782).

Applicant has amended claims 15 and 24. No new matter has been added by this response. For the reasons stated below, Applicant believes that the claims are in condition for allowance.

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1. **REJECTION OF CLAIMS 15-24**

The Examiner rejected claims 15-24 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended claim 15 to address the 35 U.S.C. §112, second paragraph rejection. With regards to the general statement that at least claim 15 recites means plus function without providing sufficient description in the specification, Applicant would like to direct the Examiner's attention to Figs. 1 and 4 along with the associated descriptions contained in the specification for the description of the means plus function (structure) description.

2. **OBJECTION OF CLAIM 24 UNDER 37 CFR 1.75(c)**

The Examiner objected to claim 24 under 37 CFR 1.75(c) as being in improper form because it depends on multiple independent claims (e.g. claim 1 and 15). This objection is now moot in view of pending claim 24.

3. **REJECTION OF CLAIMS 1-17, 19 AND 21 UNDER 35 U.S.C. §101**

The Examiner provisionally rejected claims 1-17, 19 and 21 under 35 U.S.C. §101 as claiming the same invention as that of claims of co-pending Application No. 11/521,586. The Examiner indicated on page 3, item 6, of the non-final office action that the double patenting rejection was non-statutory double patenting, but on page 4, item 7, indicated that it was provisionally a 35 U.S.C. §101 (i.e. statutory) double patenting rejection. Applicant is unsure which rejection is being issued by the Examiner.

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Applicant found the claims in the current application to be properly broader than the claims contained in the 11/521,586 application and statutory double patenting rejection can not apply. Since the rejection has only been provisionally raised by the Examiner, Applicant will wait until the claims have been found allowable before filing any terminal disclaimer.

4. **REJECTION OF CLAIMS 1, 3, 6-9, 11, 13, 15, 18-19, 21, 23, AND 24 UNDER 35 U.S.C. § 102(e)**

The Examiner rejected claims 1, 3, 6-9, 11, 13, 15, 18-19, 21, 23, and 24 under 35 U.S.C. § 102(e) as being anticipated by *Granier* (U.S. Patent No. 6,711,399). The Examiner indicated on page 6, item 9, that the “establishing a data connection to an emergency call assistance center via the mobile communication system” element of claim 1 was described at column 3, lines 16-22, in the *Granier* patent. But what is described at column 3, lines 16-22, of the *Granier* patent is:

Transmission of essential memorized data concerning the running behavior of the vehicle, consisting in particular of the last location point and the type of triggering of the calling procedure, manual or D.T.M.F. –coding, on the voice channel so established.

Thus, a data connection is not established but a connection on the voice channel over which DTMF data is transmitted.

In column 5, lines 23-32, data is described as being sent in a channel other than a voice channel (S.M.S.). But, SMS messaging does not establish “a data connection to an emergency call assistance center” as claimed by Applicant. A message is sent, but there is no determination that it is received or when it is actually sent in the system. This is explained in the application on page 9, lines 1-5 of the specification. Therefore, the *Granier* patent fails to teach or describe all the elements of independent claim 1.

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With regards to claim 15, the Examiner cites to column 5, lines 66-67, column 6, lines 1-20, of the *Granier* patent for showing means for establishing data connection to an emergency call assistance center. But, as explained above the data connection is not a voice call. The voice connection is claimed as a first voice connection and is a different element from the data connection. Therefore, the *Granier* patent fails to describe all the elements of independent claim 15.

Thus, independent claims 1 and 15 are in condition for allowance along with the dependent claims 2-14 and 16-24 that depend from the allowable independent claims.

5. REJECTION OF CLAIM 2 AND 16 UNDER 35 U.S.C. §103

The Examiner rejected claims 2 and 16 under 35 U.S.C. § 103(a) as being unpatentable over *Granier* (U.S. Patent No. 6,711,399) in view of *Gao* (US 20040203652).

Claims 2 and 16 depend from allowable independent claims 1 and 15 and are therefore in condition for allowance.

6. REJECTION OF CLAIMS 4 UNDER 35 U.S.C. § 103

The Examiner rejected claim 4 under 35 U.S.C. §103(a) as being unpatentable over *Granier* (U.S. Patent No. 6,711,399) in view of *Gupte et al.* (US 20020055350).

Claim 4 depends from allowable independent claim 1 and is therefore in condition for allowance.

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7. **REJECTION OF CLAIMS 5 UNDER 35 U.S.C. § 103**

The Examiner rejected claim 5 under 35 U.S.C. §103(a) as being unpatentable over *Granier* (U.S. Patent No. 6,711,399) in view of *Wu* (U.S. Patent No. 4,163,218).

Claim 5 depends from allowable independent claim 1 and is therefore in condition for allowance.

8. **REJECTION OF CLAIMS 10 UNDER 35 U.S.C. § 103**

The Examiner rejected claim 10 under 35 U.S.C. §103(a) as being unpatentable over *Granier* (U.S. Patent No. 6,711,399) in view of *Dunning* (U.S. Patent No. 6,765,495).

Claim 10 depends from allowable independent claim 1 and is therefore in condition for allowance.

9. **REJECTION OF CLAIMS 12 AND 22 UNDER 35 U.S.C. § 103**

The Examiner rejected claims 12 and 22 under 35 U.S.C. §103(a) as being unpatentable over *Granier* (U.S. Patent No. 6,711,399) in view of *Taylor et al.* (US 20030009550).

Claims 12 and 22 depend from allowable independent claims 1 and 15 and are therefore in condition for allowance.

10. **REJECTION OF CLAIMS 14 AND 17 UNDER 35 U.S.C. § 103**

The Examiner rejected claims 14 and 17 under 35 U.S.C. §103(a) as being unpatentable over *Granier* (U.S. Patent No. 6,711,399) in view of *Caci* (U.S. Patent No. 6,154,658).

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Claims 14 and 17 depend from allowable independent claims 1 and 15 and are therefore in condition for allowance.

11. REJECTION OF CLAIMS 20 UNDER 35 U.S.C. § 103

The Examiner rejected claim 20 under 35 U.S.C. §103(a) as being unpatentable over *Granier* (U.S. Patent No. 6,711,399) in view of *Gaudreau* (US 20030222782).

Claim 20 depends from allowable independent claim 1 and is therefore in condition for allowance.

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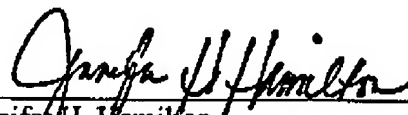
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III. CONCLUSION

Favorable consideration is respectfully requested in view of the foregoing amendments and remarks.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to our Deposit Account No. 50-2542. A copy of this sheet is enclosed.

Dated: 1/13/11


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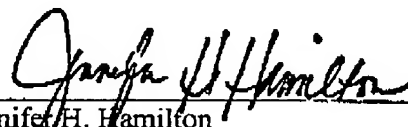
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